

ASSEMBLY BILL

No. 590

Introduced by Assembly Member Walters

February 16, 2005

An act to amend Section 65008 of the Government Code, relating to housing discrimination.

LEGISLATIVE COUNSEL'S DIGEST

AB 590, as introduced, Walters. Housing discrimination: senior housing.

The Planning and Zoning Law prohibits a local agency from prohibiting or discriminating against, among other things, a residential development, as defined, including a multifamily residential project, or emergency shelter because of, among other things, familial status, disability, or age.

This bill would specify that these provisions do not apply to zoning ordinances or conditional use permits that permit the establishment of seniors only mobilehome parks.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65008 of the Government Code is
2 amended to read:
3 65008. (a) Any action pursuant to this title by any city,
4 county, city and county, or other local governmental agency in
5 this state is null and void if it denies to any individual or group of
6 individuals the enjoyment of residence, landownership, tenancy,

1 or any other land use in this state because of any of the following
2 reasons:

3 (1) The race, sex, color, religion, ethnicity, national origin,
4 ancestry, lawful occupation, familial status, disability, or age of
5 the individual or group of individuals. For purposes of this
6 section, both of the following definitions apply:

7 (A) “Familial status” as defined in Section 12955.2.

8 (B) “Disability” as defined in Section 12955.3.

9 (2) The method of financing of any residential development of
10 the individual or group of individuals.

11 (3) The intended occupancy of any residential development by
12 persons or families of low, moderate, or middle income.

13 (b) (1) No city, county, city and county, or other local
14 governmental agency shall, in the enactment or administration of
15 ordinances pursuant to this title, prohibit or discriminate against
16 any residential development or emergency shelter for any of the
17 following reasons:

18 (A) Because of the method of financing.

19 (B) Because of the race, sex, color, religion, ethnicity, national
20 origin, ancestry, lawful occupation, familial status, disability, or
21 age of the owners or intended occupants of the residential
22 development or emergency shelter.

23 (C) Because the development or shelter is intended for
24 occupancy by persons and families of low and moderate income,
25 as defined in Section 50093 of the Health and Safety Code, or
26 persons and families of middle income.

27 (D) Because the development consists of a multifamily
28 residential project that is consistent with both the jurisdiction’s
29 zoning ordinance and general plan as they existed on the date the
30 application was deemed complete, except that a project shall not
31 be deemed to be inconsistent with the zoning designation for the
32 site if that zoning designation is inconsistent with the general
33 plan only because the project site has not been rezoned to
34 conform with a more recently adopted general plan.

35 (2) The discrimination prohibited by this subdivision includes
36 the denial or conditioning of a residential development or shelter
37 because of, in whole or in part, (A) the method of financing or
38 (B) the occupancy of the development by persons protected by
39 this subdivision, including, but not limited to, persons and
40 families of low and moderate income.

1 (c) For the purposes of this section, “persons and families of
2 middle income” means persons and families whose income does
3 not exceed 150 percent of the median income for the county in
4 which the persons or families reside.

5 (d) (1) No city, county, city and county, or other local
6 governmental agency may impose different requirements on a
7 residential development or emergency shelter that is subsidized,
8 financed, insured, or otherwise assisted by the federal or state
9 government or by a local public entity, as defined in Section
10 50079 of the Health and Safety Code, than those imposed on
11 nonassisted developments, except as provided in subdivision (e).
12 The discrimination prohibited by this subdivision includes the
13 denial or conditioning of a residential development or shelter
14 based in whole or in part on the fact that the development is
15 subsidized, financed, insured, or otherwise assisted as described
16 in this paragraph.

17 (2) No city, county, city and county, or other local
18 governmental agency may, because of the race, sex, color,
19 religion, ethnicity, national origin, ancestry, lawful occupation,
20 familial status, disability, or age of the intended occupants, or
21 because the development is intended for occupancy by persons
22 and families of low, moderate, or middle income, impose
23 different requirements on these residential developments than
24 those imposed on developments generally, except as provided in
25 subdivision (e).

26 (e) Notwithstanding subdivisions (a) to (d), inclusive, nothing
27 in this section or this title shall be construed to prohibit ~~either~~ any
28 of the following:

29 (1) The County of Riverside from enacting and enforcing
30 zoning to provide housing for older persons, in accordance with
31 state or federal law, if that zoning was enacted prior to January 1,
32 1995.

33 (2) Any city, county, or city and county from extending
34 preferential treatment to residential developments or emergency
35 shelters assisted by the federal or state government or by a local
36 public entity, as defined in Section 50079 of the Health and
37 Safety Code, or other residential developments or emergency
38 shelters intended for occupancy by persons and families of low
39 and moderate income, as defined in Section 50093 of the Health
40 and Safety Code, or persons and families of middle income, or

1 agricultural employees, as defined in subdivision (b) of Section
2 1140.4 of the Labor Code, and their families. This preferential
3 treatment may include, but need not be limited to, reduction or
4 waiver of fees or changes in architectural requirements, site
5 development and property line requirements, building setback
6 requirements, or vehicle parking requirements that reduce
7 development costs of these developments.

8 *(3) Any city, county, or city and county from enacting senior*
9 *mobilehome park zone ordinances or granting conditional use*
10 *permits for mobilehome parks, so long as the senior mobilehome*
11 *park or zone qualifies as "housing for older persons" under the*
12 *federal Fair Housing Act (42 U.S.C. Sec. 3601 et seq.).*

13 (f) "Residential development," as used in this section, means a
14 single-family residence or a multifamily residence, including
15 manufactured homes, as defined in Section 18007 of the Health
16 and Safety Code.

17 (g) This section shall apply to chartered cities.

18 (h) The Legislature finds and declares that discriminatory
19 practices that inhibit the development of housing for persons and
20 families of low, moderate, and middle income, or emergency
21 shelters for the homeless, are a matter of statewide concern.